plaintiff had prepared a deed of the premises to C. and had delivered same to him. C. was a real estate broker and the purpose of the deed was to enable him to effect a sale of the premises. It was *held* that the lower court was right in concluding that in view of the circumstances under which the deed was delivered to C., there had been no change in ownership. *Phillips* v. *Farmers Mut. Fire Ins. Co.* (Mich., 1919), 175 N. W. 144.

The defendant relied upon *Western Ins. Co.* v. *Riker,* 10 Mich. 279, and kindred cases "in which it is held that a deed absolute on its face, though given as a security, avoids the policy." The court stated that "The distinction between the Riker case and the one at bar lies in the fact that, as found by the trial judge, there was no present intent on the part of the parties to pass any title to Chilson." No reference is made to the case of *Wipfler* v. *Wipfler,* 153 Mich. 18, in which the court held that it was not competent for the grantor to show by parol evidence that a deed handed to a grantee was to be effective only in the case of the happening of a certain event. See the discussion of this general subject in 18 MICH. L. REV. 314. Though it does not appear clearly from the report of the principal case, it is undoubtedly a fair inference that it was the intention of the grantor that the deed to C. should be effective as a conveyance to him in case he found a purchaser for the premises. The deed to such purchaser was obviously intended to run from C.

ELECTRICITY—DUTY TO INSULATE WIRES—PROTECTION FOR CHILDREN CLIMBING TREES.—Defendant power company maintained high-tension wires, uninsulated, strung through trees on plaintiff's premises, about 16 feet from the ground. Plaintiff's minor son, in climbing one of these trees, came in contact with a wire and was killed. *Held,* defendant was liable. *Chickering* v. *Lincoln County Power Co.,* (Me., 1919) 108 Atl. 460.

The theory of the principal case was that defendant, whose structures were erected under a statute and hence legal, was liable only for negligence. The court did not proceed on the theory of "attractive nuisance" which had not been followed in Maine. *McMinn* v. *Telephone Co.,* 113 Me. 519. The reasoning of the court seems in accord with the weight of authority. The duty of an electric company in conveying a current of high potential, to exercise commensurate care under the circumstances, requires it to insulate its wires and to use reasonable care to keep same insulated. This duty has been held to be limited to points where there is ground to apprehend that a reasonably prudent person may come in close proximity with the wires. THE LAW OF ELECTRICITY, CURTIS, § 510; *Wetherby* v. *Twin State Co.,* 83 Vt. 189. Companies maintaining such lines are bound to recognize that persons may lawfully climb trees. *McCrea* v. *Beverly Gas and Electric Co.,* 216 Mass. 495. Companies are further charged with knowledge that swaying limbs will wear the insulation off. CURTIS, *supra,* § 512; *Brubaker* v. *Electric Light Co.,* 130 Mo. App. 439. Courts further recognize that children are apt to climb trees, and impose on electric companies a duty to keep their high tension wires insulated in places where children will come in contact with them. *Temple*

v. *McComb City Electric Light and Power Co.*, 89 Miss. 1; *Benton* v. *North Carolina Public Service Corp.*, 165 N. C. 354; CURTIS, *supra*, § 512. An opposite conclusion was reached where child had been warned not to climb tree through which wire ran. *Brown* v. *Panola L. and P. Co.*, 137 Ga. 352. The fact that the child is not climbing trees on its parent's premises is not important, as child is not a trespasser against the electric company. *Mullen* v. *Wilkes-Barre Gas and Electric Co.*, 229 Pa. St. 54; if the child was trespassing on the land of the electric company, latter could not be held liable except on the "attractive nuisance" theory. Wires carrying current, poles, and guy wires are not generally placed in the class of "attractive nuisances," as they are not inherently attractive to children and are generally placed out of reach. See 25 L. R. A. (N.S.) 1220 and cases there cited; CURTIS, *supra*, §§ 469, 470, 471. The basis of liability is, as stated above, founded on a duty to protect "everyone who may be lawfully in proximity to its wires and liable to come accidentally or otherwise in contact with them." *Mullen* v. *Wilkes-Barre Gas and Electric Co., supra.* But the high degree of vigilance required does not make electric companies insurers. In *Adams* v. *Bullock*, 125 N. E. 93 (N. Y.) a boy swung a wire eight feet long over the parapet of a bridge. It came in contact with a trolley wire and the boy was burned. The defendant company was held not liable, as "no vigilance, unless fortified by the gift of prophecy, could have predicted the point where such an accident would occur." See note to this case in 90 CENT. L. JOUR. 125.

EMBEZZLEMENT—EVIDENCE OF INTENT.—The exclusion of testimony of conversations tending to show absence of felonious intent, by defendant with one not entitled by law to any part of the property alleged to have been embezzled, and with a lawyer as to the legality of keeping it, offered by a defendant charged with embezzlement as a bailee. *Held,* error. *Lindgren* v. *United States,* (C. C. A., 9th Circ., 1919) 260 Fed. 772.

Gilbert, J., dissented from this ruling. However, the underlying principle is clear, "Any facts which go to explain the condition of a person's mind, when such condition is at issue, may be received." WHARTON ON EVIDENCE, Sec. 254. Ross, J., giving the majority opinion of the court, cited only one case in support, *State* v. *Littschke,* 27 Ore. 189, "conversion by the defendant must have been with a felonious intention, and this was a question of fact for the jury under all the circumstances of the case." Evidence that at the time of the alleged embezzlement the accused was in debt and in need of money is admissible to show motive, *Govatos* v. *State,* 42 S. E. 708, *United States* v. *Camp,* 10 Pac. 226. Intent, whether proved directly or indirectly, is the essence of the crime. In the following cases, evidence of flight of accused, *Commonwealth* v. *Hurd,* 123 Mass. 438; letters showing plan to defraud, *People* v. *Tomlinson,* 102 Cal. 19; evidence that accused committed offenses similar to that in question, *People* v. *Gray,* 66 Cal. 271; *State* v. *Pittam,* 32 Wash. 137; was admitted to show intent. A defendant should never have fewer facilities for proving innocence than the State has for proving guilt. Any evidence tending to prove lack of felonious intent should be